



May 4, 2017

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In the Matter Of

Restoring Internet Freedom

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WC Docket No. 17-108

Written Ex Parte of the Benton Foundation

The Benton Foundation offers the following for the newly-opened WC Docket No.

17-108.

Technology columnist Farhad Manjoo recently asked, "Does ending network neutrality help the big fish or the little fish? Will scrapping the rules make the internet fairer, more dynamic and more innovative? Will it create a more favorable atmosphere for potential challengers of the Frightful Five (Alphabet, Amazon, Apple, Facebook, and Microsoft)? Probably not. In fact, it could entrench their power even further."

Manjoo goes on to conclude, "The giants seem likely to keep getting bigger. If we give them a chance to buy up every fast lane online, we'll be removing another check on their untamed power."

Benton urges the Commission to protect innovation and retain strong, enforceable Open Internet rules.

Sincerely,

_____/s/

Kevin Taglang

Benton Foundation

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TECHNOLOGY

Giving the Behemoths a Leg Up on the Little Guy



Farhad Manjoo

STATE OF THE ART MAY 3, 2017

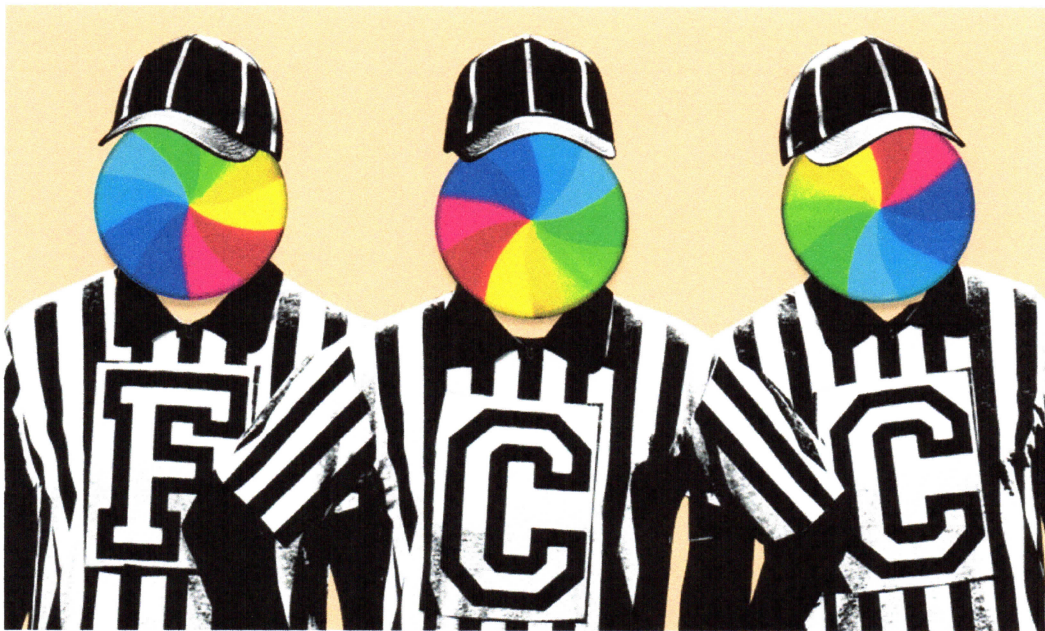


Illustration by Doug Chayka

Every year, the internet gets a little less fair. The corporations that run it get a little bigger, their power grows more concentrated, and a bit of their idealism gives way to ruthless pragmatism.

And if Ajit Pai, the new chairman of the [Federal Communications Commission](#), gets his way, the hegemonies are likely to grow only larger and more powerful.

This column is nominally about [network neutrality](#), the often sleep-inducing

debate about the rules that broadband companies like [Comcast](#) and [AT&T](#) must follow when managing their networks. But really, this is a story about ballooning corporate power.

At the moment, the internet isn't in a good place. [The Frightful Five](#) — [Amazon](#), [Apple](#), [Facebook](#), [Microsoft](#) and [Alphabet](#), Google's parent company — control nearly everything of value in the digital world, including operating systems, app stores, browsers, cloud storage infrastructure, and oceans of data from which to spin new products. A handful of others — Comcast, AT&T, [Verizon](#) — control the wired and wireless connections through which all your data flows. People used to talk about the internet as a wonderland for innovative upstarts, but lately the upstarts keep getting clobbered. Today the internet is gigantic corporations, all the way down. Which brings us to net neutrality. The rule basically prevents broadband providers from offering preferential treatment to some content online — it blocks Comcast from giving, say, a speed boost to a streaming video company that can afford to pay over one that cannot.

Amid many legal battles, neutrality rules in some form have governed the internet for years. In 2015, after President Obama advocated a stricter policy, Tom Wheeler, then chairman of the F.C.C., pushed through sweeping network neutrality rules. But under President Trump, net neutrality is on the chopping block. Last week, Mr. Pai [outlined an effort to loosen the rules](#); his vision is likely to come to pass.

The fight over network neutrality is often seen as a battle between telecom companies and internet companies — between fat-pipe providers like Comcast (which stand to make some money by charging for priority lanes) and digital innovators like Google (which might have to pay up). As a matter of lobbying, the two sides are definitely in opposition: Broadband companies cheered Mr. Pai's speech, while the Internet Association — a group that represents dozens of large and small internet companies, including Amazon, Facebook and Google — opposed it.

Yet the portrayal of a fight along internet-versus-telecom battle lines seems increasingly simplistic. Telecom companies are becoming internet companies (Verizon now owns AOL and Yahoo), internet companies are dabbling in telecom (Alphabet has a fiber-optic internet service arm), and they're all becoming film and TV studios (Amazon [has an Emmys strategy](#)!).

So the better way to think about the rules isn't in terms of what these companies do, but rather in terms of size. Does ending network neutrality help the big fish or the little fish? Will scrapping the rules make the internet fairer, more dynamic and more innovative? Will it create a more favorable atmosphere for potential challengers of the Frightful Five?

Probably not. In fact, it could entrench their power even further.

Tim Wu, the Columbia Law professor and New York Times contributing opinion columnist who [developed the concept of “network neutrality,”](#) said that the emergence of a handful of internet giants has altered how he thinks about the issue. In 2003, when he began arguing for neutrality rules, Mr. Wu was mainly interested in protecting digital innovators from the telecom oligopolies that had long stifled new technology on their networks. If phone companies brought the same rules from phone networks over to the internet, attaching unapproved hardware to your line (like a Wi-Fi router) or running software that might compete with the phone company's primary business (say, Skype) could be deemed verboten.

But today, Mr. Wu sees neutrality rules as having a broader purpose — protecting innovators not just from broadband companies, but also from the internet giants that now rule the network.

“In the earliest days we were trying to save companies like YouTube,” he said. “Now it’s as much about trying to save the net from YouTube as it is about saving YouTube.”

To see what he means, consider that today’s internet giants have lots of ways to insulate themselves from competition. First, anytime competitors succeed, the giants usually also do well — they get rents from app store revenue, from cloud storage bills and from app-install ads, among other things. And when upstarts come along with services that threaten the Five’s businesses, the giants can simply copy them, and bundle their own versions with their popular products. See how Apple launched its own streaming service [to compete with Spotify](#), or how [Facebook copied](#) all of Snapchat’s most popular features.

But Mr. Wu points out that at least the giants now have to do something to respond to rivals. In the absence of neutrality rules, all they might have to do is buy up access to speedy lanes online, thus easily preventing rivals from ever working well on people’s phones.

“Snapchat has grown up in an era of network neutrality, and I think Snapchat owes some of its existence to net neutrality,” Mr. Wu said.

“Facebook hasn’t been able to destroy it yet, and they would have had an easier job in a non-net-neutrality world. The question is, will Facebook and Comcast be able to join together and gang up on a future Snapchat?”

The internet giants — who, remember, are in favor of neutrality rules — don't exactly agree that the rules also help keep the internet giants in check. But they do agree that the rules could help start-ups.

"Internet companies of all sizes believe that the current F.C.C. net neutrality rules are working and these consumer protections should not be changed," Noah Theran, a spokesman for the Internet Association, said in an email. He added: "Silicon Valley, since its birth, has held to the belief that the best ideas can compete and win in the marketplace. Consumers and the internet ecosystem benefit when start-ups can leapfrog incumbents, and net neutrality is key to preserving this ethos."

Meanwhile, opponents of network neutrality argue just the opposite — that removing the rules would actually strengthen start-ups.

"The big companies are already getting huge speed advantages because they've built out massive online infrastructure," said Bret Swanson, who studies telecom policy at the American Enterprise Institute, a conservative think tank. "But the upstart that doesn't have the massive infrastructure and doesn't have tens of billions of dollars to build it, that company could use things like paid priority to enter this competitive market."

In other words, if broadband companies start taking money to speed up certain content, start-ups could use that offer to make their content just as fast as that of any tech giant.

Well, maybe. Mr. Swanson's theory rests on the assumption that the new rules would not permit unfair practices. If Google, Facebook or some other giant offered a broadband company millions to block a rival's service, Mr. Swanson said that could trigger antitrust investigations and other negative consequences for the behemoth.

“The basic antitrust and competition laws will still be applicable, and so companies couldn’t just exclude rivals in this way,” he said.

I’m less sanguine. American regulators have shown a near total lack of interest in pursuing tech giants — and most other companies — on anticompetitive issues. It does not look like that’s going to change under President Trump.

The giants seem likely to keep getting bigger. If we give them a chance to buy up every fast lane online, we’ll be removing another check on their untamed power.